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October 17, 2006

Via CM/ECF Filing

The Honorable Sue L. Robinson
Lock Box 31
United States District Court
District of Delaware
844 King Street
Wilmington, DE 19801

RE: Dietz v. Baker, C.A. No. 06-256-SLR

Dear Judge Robinson:

In anticipation of the scheduled telephone conference on Thursday, October 19, 2006, attached at Tab A is the Proposed Rule 16 Scheduling Order.

The only issue in dispute between the parties involves item 1 - Pre-Discovery Disclosures. Everything else has been agreed to by the parties.

Very truly yours,

/s/ Thomas S. Neuberger

Attorney for Plaintiff

cc: Teresa Cheek, Esq. (Via CM/ECF with attachments)
Rebecca Butcher, Esq. (Via CM/ECF with attachments)
client

TAB

A

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CAPTAIN NANCY S. DIETZ,

Plaintiff,

V.

**MAYOR JAMES M BAKER,
individually and in his official capacity
as the Mayor of the City of Wilmington,
and MAYOR AND COUNCIL OF
WILMINGTON,**

Defendants.

[illegible]

C.A.No.06-256-SLR

PROPOSED RULE 16 SCHEDULING ORDER

At Wilmington this 19th day of October, 2006, the parties having satisfied their obligations under Fed.R. Civ. P. 26(f), and the court having conducted a pretrial scheduling conference pursuant to Fed. R. Civ. P. 16 and D. Del. LR 16.2(a) and (b).

IT IS ORDERED that:

1. Pre-Discovery Disclosures. Plaintiff has already exchanged some of the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.2, all parties shall provide complete information by October 27, 2006.

2. Discovery.

(a) Discovery will be needed on the following subjects: (brief description of subjects on which discovery will be needed).

Plaintiff's Statement

1. Qualifications of Plaintiff and the two comparators.

2. Elements of the Prima Facie Case.
3. Any legitimate non-discriminatory reasons.
4. Any prong 1 Fuentes factors.
5. Any prong 2 Fuentes factors.
6. Elements of compensatory damages.
7. Elements of punitive damages.
8. Appropriate injunctive relief.
9. Any affirmative defenses raised by Defendants.
10. Race and qualifications of previous appointees to the rank of Inspector.
11. Any quota system in operation in the City of Wilmington.
12. Any City affirmative action plans and policies.
13. Operations of the Administrative Board of the City as they affect the Major's authority to make these promotions.
14. City and police department personnel policies as they affect these two promotions.
15. Statistical makeup of the relevant workforce.

Defendants' Statement

In addition to the subjects described by Plaintiff in the foregoing list, discovery will be needed on Plaintiff's alleged damages, Plaintiff's efforts to mitigate her alleged damages, and any allegations of the complaint not covered by the foregoing list and any elements of Defendants' affirmative defenses not covered by the foregoing list.

(b) All discovery shall be commenced in time to be completed by May 25, 2007.

(c) Maximum of 50 interrogatories by each party to any other party.

(d) Maximum of 50 requests for admission by each party to any other party.

(e) Maximum of 15 depositions by plaintiff and 15 depositions by defendant.

(f) Each deposition will be limited to a maximum of 7 hours unless extended by agreement of parties.

(g) Reports from retained experts under Rule 26(a)(2) on issues for which any party has the burden of proof due by March 1, 2007. Rebuttal expert reports due by April 13, 2007.

(h) **Discovery Disputes.** Any discovery dispute shall be submitted to the court pursuant to Fed. R. Civ. P. 37. During the course of discovery, each party is limited to **two (2)** Rule 37 motions. The court shall make itself available, however, to resolve through a telephone conference, disputes that arise during the course of a deposition and disputes related to entry of a protective order.

3. Joinder of other Parties, Amendment of Pleadings, and Class Certification. All motions to join other parties, amend the pleadings, and certify a class action shall be filed on or before December 15, 2006.

4. Settlement Conference. Pursuant to 28 U.S.C. § 636, this matter is referred to Magistrate Judge Thyng for the purposes of exploring ADR.

5. Summary Judgment Motions. All summary judgment motions shall be served and filed with an opening brief on or before June 29, 2007. Briefing shall be pursuant to D. Del. LR 7.1.2. No summary judgment motion may be filed more than **ten (10)** days from the above date without leave of the court.

6. **Applications by Motion.** Any application to the court shall be by written motion filed with the clerk. Unless otherwise requested by the court, counsel shall not deliver copies of papers or correspondence to chambers. **Any nondispositive motion shall contain the statement required by D.Del. LR 7.1.1.**

7. **Motions in Limine.** All motions in limine shall be filed on or before **[two weeks before pretrial conference]**. All responses to said motions shall be filed on or before **[one week before pretrial conference]**.

8. **Pretrial Conference.** A pretrial conference will be held on _____ at _____ m. in courtroom 6B, sixth floor Federal Building, 844 King Street, Wilmington, Delaware. The Federal Rules of Civil Procedure and D. Del. LR 16.4 shall govern the pretrial conference.

9. **Trial.** This matter is scheduled for a 5 day jury trial commencing on _____, 2007 in courtroom 6B, sixth floor Federal Building, 844 King Street, Wilmington, Delaware. For purposes of completing pretrial preparations, the parties should plan on being allocated a total number of _____ hours in which to present their respective cases.

UNITED STATES DISTRICT JUDGE